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1951

May 11

Mr. James J. Barry, Commissioner  
Department of Public Welfare  
State House Annex

Dear Sir:

Reference is made to your letter of April 30,  
1951 concerning the settlement of illegitimate children.

The statute is explicit to the effect that an illegitimate child shall have the settlement of his mother at the time of his birth, if any she have within the state. R. L. c. 123, s. 1 IV. This is an affirmation of ancient law which regarded illegitimate children "for most legal objects . . . destitute of parents", Bow v. Nottingham, 1. N. H. 260. Consistently with this, the settlement of the child does not change upon a change of settlement of the mother, Dorchester v. Deerfield, 3. N.H. 316. You are, therefore, correct in concluding that the settlement of an illegitimate child does not change upon the acquisition of a new domicile by the mother through marriage.

Since the settlement of an illegitimate child does not appear to be based upon domicile, abandonment of such domicile as he may have would seem not to affect his settlement. It is clear, that support as a pauper for five consecutive years will deprive a child of his settlement. R. L. c. 123, s. 8.

Very truly yours,

Warren E. Waters  
Assistant Attorney General

WEW:rm

TO  
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2-9-51

changed  
10/1/53

see letter to  
Comm. Barry in 2670